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Member NY & NJ Bars

Of Counsel

David Harris

The Hon. Katherine Polk Failla
40 Foley Square, Courtroom 618
New York, NY 10007

MEMO ENDORSED

Re: Antolin v. N. Corporation et al
Case No.: 1:19-cv-07385 KPF

Dear Hon. Failla:

This firm has been retained to represent the defendants in connection with the matter referenced above. This letter is written in response to the plaintiff's letter motion dated February 28, 2020. First, the plaintiff's counsel has never called my office as he claimed, other than two short email exchanges we had. Quite the contrary to what he claimed, he has never notified me before he filed this letter motion, even though on February 25, 2020, I sent email to him requesting him to answer the defendant's interrogatory and discovery, Exhibit 1.

Second, the plaintiff requested to have the restaurant inspected and I notified him on February 11, 2010 that the plaintiff can inspect the defendant's restaurant in the next ten days by picking up a date and time for the inspection. However, to date the plaintiff has neither come to inspect the subject premises, nor provided a schedule regarding the inspection. Exhibit 2. Third, the defendants sent Interrogatory and Discovery to the plaintiff, but the plaintiff either objected or dodged to provide no answer in substance, nor did he produce any documents. Exhibit 3. I realized that your Honor requested us to bring the discovery dispute to your attention before Feb 6, 2020. However, by the time I got all these records from the prior attorney, I already missed the deadline. I apologized for the delay.

Fourth, the defendant has answered and produced large amount of documents to the plaintiff, and the defendants have substantially complied with all the discovery requests of the plaintiff. Exhibit 4. They are in the process to supplement some additional materials to the best of their ability.

The records speak for what happened in this matter. The defendants will comply with all the orders of your Honor. Thank you for your courtesy and attention.

Respectfully submitted,

/s/Oliver Zhou

OZ:wc

Enc.

The Court is in receipt of Plaintiff's February 28, 2020 motion to compel Defendants' to comply with their discovery obligations and to strike Defendants' pleadings (Dkt. #33), and Defendants' March 3, 2020 letter in opposition (Dkt. #34). The Court understands that Defendants have failed to comply fully with Plaintiff's outstanding discovery requests. Defendants are hereby ORDERED to comply with or respond to all of Plaintiff's discovery requests on or before March 18, 2020. If Plaintiff believes that Defendants' have still failed to comply with their discovery obligations, Plaintiff's counsel is directed to contact Defendants' counsel immediately to discuss those supposed deficiencies and attempt to work out a mutually agreeable solution. If, after engaging in this discussion, Plaintiff continues to believe that Defendants have not complied with their discovery obligations, Plaintiff shall notify the Court in advance of the March 27, 2020 deadline for Defendants to complete fact discovery. If Defendants fail to comply with their discovery obligations, the Court will seriously consider a motion for sanctions against Defendants pursuant to Federal Rule of Civil Procedure 37.

In their March 3, 2020 letter in opposition to Plaintiff's motion to compel, Defendants notified the Court for the first time of their belief that Plaintiff has failed to fully comply with his discovery obligations. (Dkt. #34). But the deadline for Plaintiff to complete fact discovery was January 14, 2020. (Dkt. #24). Further, Defendants were ordered to notify the Court on or before February 6, 2020, if they believed that Plaintiff had failed to comply with his discovery obligations. (Dkt. #32). Thus, Defendants are nearly one-month late in notifying the Court of Plaintiff's allegedly deficient discovery responses. In light of this, and Defendants' dilatory tactics over the course of this litigation, the Court will not reopen fact discovery as to Plaintiff.

Dated: March 4, 2020
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE